

AG Agreement No. KR02-1831TRN  
ADOT ECS File No. JPA 02-33  
Section: US 60 @ 35<sup>th</sup> and 19<sup>th</sup> Avenues  
Project: Increase Turn Lane Capacity  
TRACS No.: H6418 01C  
Budget Source Item No.: 73304

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF PHOENIX

103151 -

THIS AGREEMENT is entered into 13th day of September, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PHOENIX, acting by and through its CITY MANAGER (the "City").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by City Charter Chapter II, Section 2.i. of the Phoenix City Charter to enter into this Agreement and has by Resolution, a copy of which is attached hereto and made a part hereof, authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to share equally in the cost to reconstruct east and west bound turn lanes, in which to increase storage capacity on US 60 at both the 35<sup>th</sup> Avenue and 19<sup>th</sup> Avenue crossroads, herein referred to as "the Project". The Project is scheduled as part of the City's Bottleneck Program, funded in the State's Construction Program in Fiscal Year (FY) 2003. This Project includes but is not limited to: removing the existing medians and replacing with asphaltic concrete; adjusting manholes and water meters; and replacing curb, gutter, sidewalk and medians on US 60, at an actual cost of \$289,100.00, City's awarded Agreement amount.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

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NO. 27075  
Filed with the Secretary of State  
Date Filed: 09/13/04

Janice K. Brewer  
Secretary of State

By: Darryl D. Haeneveld

**II. SCOPE OF WORK****1 The City:**

a Will upon execution of this Agreement, based on the City's actual awarded Agreement amount of \$289,100.00, invoice the State for 50% of the actual cost of construction of the Project, including 5% for contingencies and a fixed rate of 14% for construction engineering and administration.

b Has previously provided construction plans, specifications material reports, drainage reports, environmental clearance, and utility clearance, to State standards, and has received right-of-way clearance from the State and provided construction cost estimates and any other documents required for construction bidding and construction of the Project.

c Has reviewed plans at the 60%, 95% and 100% level and has reviewed comments and final changes at the Stage IV Resolution Meeting with the State

d Has approved the final plans, required documents and submitted clearances for the Project

e Has called for bids, awarded one or more contract(s) and will make all payments to the contractor, and be responsible for any contractor claims for extra compensation or delays for whatever reason, attributable to the City

f Will prepare a final detailed recapitulation of costs, and if applicable, list any reimbursement to be provided to the State

g Upon completion of the Project, be responsible for maintenance inside the City's right-of-way, detailed in the Master Maintenance Agreement (JPA 90-19) including any and all Amendments.

**2 The State will.**

a Upon execution of this Agreement and receipt of an invoice, pay to the City an amount not to exceed \$144,550.00 representing 50% of the actual Agreement awarded for this project as the State's total participation. The estimate for the cost of construction of the project includes 5% for contingencies and a fixed rate of 14% for construction engineering and administration.

b The State has reviewed plans at the 60%, 95% and 100% level and reviewed comments and final changes at the Stage IV Resolution Meeting with the City.

c Will not be responsible for any costs over and above the State's total participation of \$144,550.00

d Upon completion of the Project, be responsible for the maintenance inside State right-of-way, detailed in the Master Maintenance Agreement (JPA 90-19) including any and all Amendments.

**III. MISCELLANEOUS PROVISIONS**

1 This Agreement shall become effective upon filing with the Secretary of State.

2 The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance outside of State's right-of-way provided by the City shall be perpetual. This Agreement may be cancelled at any time upon (30) thirty-days written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

3 This Agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this Agreement to allow the above mentioned to responsibly request the State records be produced at a selected time and designated State office.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide Arizona Revised Statutes Section 12-1518 as applicable

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, MD 616E  
Phoenix, AZ 85007  
FAX: (602) 712-742

City of Phoenix  
Street Transportation Director  
200 W. Washington Street - 5th floor  
Phoenix, AZ 85003-1611

7. Non-Availability of Funds: Every payment obligation of the State and City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and City at the end of the period for which the funds are available. No liability shall accrue to the State or the City in the event this provision is exercised, and the State and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. Attached hereto and incorporated herein are the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written

**CITY OF PHOENIX**, a Municipal  
Corporation, Frank Fairbanks, City Manager

**STATE OF ARIZONA**  
Department of Transportation

By Thomas E. Callow  
THOMAS E. CALLOW, P.E.  
Street Transportation Director

By Daniel S. Lance  
DANIEL S. LANCE, P.E.  
Deputy State Engineer

ATTEST

By Susan J. Webb  
ACTING  
City Clerk



G:02-033-Completed project  
19 July-2004-ly final revision

RESOLUTION NO. 19838

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA THROUGH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO WIDEN GRAND AVENUE AT THE INTERSECTIONS OF 19<sup>TH</sup> AVENUE AND MCDOWELL ROAD, AND 35<sup>TH</sup> AVENUE AND INDIAN SCHOOL ROAD TO PROVIDE DOUBLE LEFT TURN LANES.

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PHOENIX as

follows:

SECTION 1. The City Manager is authorized to enter into an intergovernmental agreement with the State of Arizona through the Arizona Department of Transportation to widen Grand Avenue at the intersections of McDowell Road and 19<sup>th</sup> Avenue, and Indian School Road and 35<sup>th</sup> Avenue to provide for double left turn lanes.

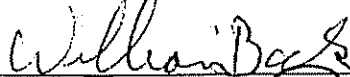
PASSED by the Council of the City of Phoenix this 3<sup>rd</sup> day of July, 2002.

  
**ACTING** MAYOR


ATTEST:

 City Clerk

APPROVED AS TO FORM:

 **ACTING** City Attorney

REVIEWED BY:

 City Manager

CITY CLERK DEPT.  
MS  
2002 JUL -3 AM 9:30

DLB: cz:133646v1  
7/28/02; #26

**CITY OF PHOENIX  
REQUEST FOR COUNCIL ACTION**

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**Complete this form per O.P. 1.906 and A.R. 4.11.**

**Refer to the City Council Agenda Process Reference Guide for Assistance**

|                                |  |   |   |
|--------------------------------|--|---|---|
| <b>ACTION REQUESTED</b>        | Formal Action:   | OR  | Legal Document:   |
|                                | Bid Award <input type="checkbox"/>   |   | Ordinance <input type="checkbox"/>  |
|                                | License Application <input type="checkbox"/>   |   | Resolution <input checked="" type="checkbox"/>  |
|                                | Public Hearing <input type="checkbox"/>  |   | Emergency Clause? <input type="checkbox"/>  |
|                                | Other <input checked="" type="checkbox"/>  |   | (for use only w/ord. or res. requests)  |
| <b>IMPACTED DISTRICT(S)</b>    | DISTRICTS 4, 5 AND 7   |   | <b>ADDITIONAL BACKUP MATERIAL SENT UNDER SEPARATE COVER?</b> <input type="checkbox"/> |
| <b>SUBJECT</b>                 | INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION - DOUBLE LEFT-TURN LANES ON GRAND AVE. |   |   |
| <b>REQUESTED AGENDA DATE</b>   | 7/3/2002   | <b>PREPARED BY</b>  | Name J. Donald Herp<br>Department Street Transportation<br>Phone 262-4872             |
| <b>APPROVALS</b>               | Division Head:   | J. Donald Herp, P.E.  | If prepared for another department:<br>Department Name:                               |
|                                | Department Head:   | Thomas E. Callow, P.E.  |   |
| <b>BID AWARD INFORMATION</b>   | Bid Surety Required? <input type="checkbox"/>  | Performance Surety Required <input type="checkbox"/>  |   |
|                                | Submitted by Low Bidder? <input type="checkbox"/>  | Amount? _____   |   |
|                                | Contract Required? <input type="checkbox"/>  | Requisition No. _____   |   |
| <b>CONTRACT INFORMATION</b>    | Contract Amendment? <input type="checkbox"/>   |   |   |
|                                | If Yes, Current Contract No. _____   |   |   |
|                                | Approved by:   | Ordinance <input type="checkbox"/><br>Resolution <input type="checkbox"/><br>Formal Action <input type="checkbox"/> | on Date: _____  |
| <b>BUDGET INFORMATION</b>      | \$ _____   |   | To Be Encumbered? <input type="checkbox"/>  |
|                                | Source of Funds: State Funds/AHUR  |   | Fiscal Year? _____  |
|                                | Fund Center(s) (SAP-FM): ST89310063, ST89310065  |   |   |
|                                | Commitment Item(s) (SAP-FM): _____   |   |   |
| Availability of Funds Approval |  | Lauri L. Wingenroth   |   |
| <b>CITY MANAGER'S OFFICE</b>   | Approved by<br>Jack Tevlin, Deputy City Manager 6/20/02  |   | CM Control No. 26   |
| <b>CITY CLERK DEPARTMENT</b>   | Council Action Taken: Adopted  |   |   |
|                                | Ordinance Number:  |   | RCA No. 39287   |
|                                | Resolution Number: 19838   |   | Contract No. 103151   |
|                                | Comments:  |   | Meeting Date 7/3/2002   |
|                                |  |   | Item No. 117  |

**ITEM****DISTRICTS 4, 5 AND 7****INTERGOVERNMENTAL  
AGREEMENT WITH ARIZONA  
DEPARTMENT OF  
TRANSPORTATION – DOUBLE  
LEFT-TURN LANES ON GRAND  
AVE.**

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Request approval for the City Manager to enter into an Intergovernmental Agreement with the Arizona Department of Transportation (ADOT) for the widening of Grand Avenue at 19<sup>th</sup> Avenue and McDowell Road and at 35<sup>th</sup> Avenue and Indian School Road, to provide double left turn lanes on the Grand Avenue approaches to these two intersections.

The City will manage both projects, and ADOT will contribute up to 50 percent of the cost of construction, with the estimated ADOT contribution totaling approximately \$200,000.

**Citizen Notification**

No additional right-of-way is required for the projects. No adjacent properties will be affected except during construction. No citizen notification is required.

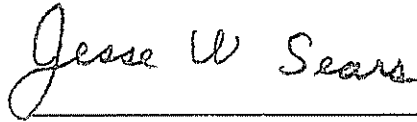
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ATTORNEY APPROVAL FORM

FOR THE CITY OF PHOENIX

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF PHOENIX, an agreement among public agencies, which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954, and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

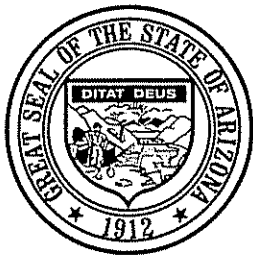
DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

A handwritten signature in cursive script that reads "Jesse W. Sears". The signature is written in dark ink and is positioned above a horizontal line.

Acting City Attorney

Handwritten initials "MB" in a stylized, cursive font, located directly beneath the title "Acting City Attorney".





**ATTORNEY GENERAL  
CIVIL DIVISION  
TRANSPORTATION SECTION**

**MEMORANDUM**

Jeffrey T. Murray  
Assistant Attorney General

Direct: (602) 542-8859  
Fax: (602) 542-3646

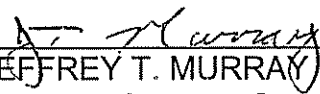
**INTERGOVERNMENTAL AGREEMENT  
DETERMINATION**

A.G. Contract No. KR02-1831TRN (**JPA 02-33**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED September 7, 2004.

TERRY GODDARD  
Attorney General

  
\_\_\_\_\_  
JEFFREY T. MURRAY  
Assistant Attorney General  
Transportation Section